GRIEVANCE POLICY AND PROCEDURES

I. Policy

When an Allegany College faculty member, administrative, or support staff employee has a grievance that involves a dissatisfaction with the application, interpretation or alleged violation of any current College policy, regulation or procedure, such grievance shall be resolved promptly and fairly in accordance with the procedures established herein.

II. Purpose

The purpose of this policy and procedures statement is to permit the orderly resolution of grievances arising out of employment at Allegany College.

III. Eligibility

This policy and procedures statement will be applicable to grievances arising out of employment for all Allegany College employees. Actions that may be aggrieved are those taken by a College employee which results in disciplinary action of suspension or dismissal, discrimination, or other action which adversely affects another employee's working conditions with the following exceptions:

1. This policy is not applicable to the dismissal of any member of the professional staff of Allegany College during the period of contract. (Dismissal of a professional staff member is addressed in the Allegany College document entitled, "Due Process Proceedings").

2. This policy is not applicable to the non-renewal of a contract for a non-tenured faculty member, administrator, or support staff member.

3. This policy is not applicable for appeal of the following actions affecting AC support staff (which are addressed in the Allegany College Support Staff Manual):

a. disciplinary action of "oral warning" and "written reprimand";
b. actions of "notice" and "warning" (which relate to non-renewal of contract);
c. extension of probationary period;
d. dismissal during or at the end of a probationary period;
e. involuntary transfers;
f. shift changes;
g. position classification;
h. results of the annual Support Staff Evaluation.

4. This policy is not applicable to part-time credit or non-credit faculty or staff members of Allegany College.

5. This policy is applicable to any full-time College employee regardless of funding.

IV. Procedures

A. Informal Steps

1. All grievances must first be taken to the aggrieved employee's immediate supervisor for informal discussion. If resolution of the grievance is achieved at this meeting, the employee and supervisor may decide to sign a statement acknowledging the terms of that agreement. If such a statement is developed and signed, it will be retained on file by both parties.

2. If the employee/supervisor meeting does not produce a satisfactory resolution of the grievance, and the employee wishes to pursue the grievance, the employee must then request further informal discussion with his/her immediate supervisor's supervisor (this person will be at the dean or Vice President administrative level).* If resolution of the grievance is achieved at this meeting, the Dean/Vice President and employee (and the supervisor if the supervisor agrees to the plan for resolution of the grievance) may decide to sign a statement acknowledging the terms of that agreement. If such a statement is developed and signed, it will be retained on file by the President, the Dean/Vice President, the supervisor, and the employee.

*to be modified as appropriate in order that an employee's organizational line reporting arrangement to the President of the College is followed.

3. If this second meeting does not produce a satisfactory resolution of the grievance, and the employee wishes to pursue the grievance, the employee must then request further informal discussion with the next highest level of administrative responsibility (usually the President of the College). If resolution of the grievance is achieved at this meeting, the President and employee (and the Dean/Vice President, and supervisor of the employee agree to the plan for resolution of the grievance) may decide to sign a statement acknowledging the terms of that agreement. If such a statement is developed and signed, it will be retained on file by the President, the dean, the supervisor, and the employee.

4. Time Limitation - The time limitation from the initial employee/supervisor meeting to the employee/President meeting to resolve a grievance according to the informal discussion process outlined above is thirty (30) working days (days that the College is officially open).

5. Only if these informal discussion steps fail to produce a satisfactory resolution of the problem (with the thirty (30) working-day time limit) an employee may file a formal written grievance.

B. Intent to File a Formal Grievance

Following the conclusion of these informal grievance procedures, if the employee wishes to formally pursue the grievance, the employee must complete and have signed by his/her supervisor, Dean, and the President an "Intent to File a Formal Grievance

Form." Once this form has been completed and signed by the employee and these three individuals, the employee has officially entered the formal grievance procedure. The "Intent Form" must be presented to the Allegany College Personnel Officer no later than ten (10) working days after the date on which the employee/President meeting occurred.

C. Written Grievance Statement

Having completed the informal grievance procedures and having completed and having obtained the necessary
signatures for the"Intent to File a Formal Grievance Form",

the employee may wish to file a formal grievance. The employee must then complete a "Formal Grievance Form."

This form solicits information regarding the grievance including the following:

1. a statement of the grievance and the basis for it;
2. date(s) of the occurrence(s);
3. the remedy or corrective action sought by the employee;
4. any other information relevant to the grievance; and
5. signature of the aggrieved employee and the date.

The "Formal Grievance Form" must be completed and hand delivered to the immediate supervisor and the Allegany College Personnel Officer. A copy of the "Intent to File a Formal Grievance" must also accompany the "Formal Grievance Form." This written grievance must be presented no later than ten (10) working days after the "Intent to File a Formal Grievance Form" has been filed and received by the AC Personnel Officer. If the employee fails to present this written statement within this time limitation, the College will consider the grievance to be resolved and the employee will have waived further claims to the grievance in this matter.

The AC Personnel Officer shall promptly, but in any event within five (5) working days after the "Formal Grievance Form" has been filed with him/her, meet with the employee to outline the steps that are to be taken in the formal grievance procedure. At that meeting the AC Personnel Officer will indicate no active role in the process other than to outline for the employee the steps in the grievance procedure. If the grievance directly involves the AC Personnel Officer, this duty shall be the responsibility of the Dean of Finance.

V. Grievance Review Panels

Three grievance review panels (also referred to hereafter as the panel or panels) which will be regular "standing" committees of Allegany College will be formed by the President of the College. The composition of the panel shall be dictated by the source of the grievance.

A. Faculty Grievance Review Panel

If a grievance is initiated by a member of the full-time faculty, the composition of the Faculty Grievance Review Panel will be as follows;

- the six (6) members of the Faculty Senate; and
- one (1) member from the administrative staff chosen by the President (excluding the Vice Presidents and the President).

B. Administrative Grievance Review Panel

If a grievance is initiated by a member of the administration, the composition of the Administrative Grievance Review Panel will be as follows:

- four (4) members of the administrative staff chosen by the President (excluding the Vice Presidents and the President);

- three (3) members of the Faculty Senate, chosen by the Chairman of the Faculty Senate.

C. Support Staff Grievance Review Panel

If a grievance is initiated by a member of the support staff, the composition of the Support Staff Grievance Review Panel will be as follows:

- four (4) members of the support staff, as chosen by the President;

- two (2) members of the administrative staff, as chosen by the President (excluding the Deans and the President); and

- one (1) member of the Faculty Senate, chosen by the Chairperson of the Faculty Senate.

If the grievance is against a panel member or a panel member is the grievant, the panel member will be removed from the panel and the President or Chairperson of the Faculty Senate (as appropriate) will select a replacement.

The Chairperson of each seven-member panel will be determined by a vote of the panel members at the initial meeting.

Of the seven members of the panel, the grievant has the right to strike (remove) up to two persons without presenting reason or cause. The grievant must indicate in a letter to the President of the College his/her desire to strike (remove) up to two persons of the panel within five working days of receipt of the written correspondence indicating the composition of the panel. If no such written objection to the panel composition is brought to the President within this time period, the panel composition stands as presented. If the grievant does indicate that a member of the panel is to be removed, the President of the College shall select the replacements for the removed individuals from the appropriate group in order to maintain the membership composition stated above. These new member(s) and the final composition of the panel will be conveyed to the grievant in written form by correspondence from the President.

Once informed of the timely filing of a formal written grievance by the AC Personnel Officer, the chairperson of the appropriate Grievance Review Panel is charged with the responsibility of convening the panel, keeping the records, and presiding over the panel until the conclusion of the case.

The first meeting of the panel shall be held within fifteen (15) working days of the meeting between the Personnel Officer and the aggrieved employee.

D. Hearing(s)

For any hearing deemed necessary and appropriate by the Grievance Review Panel, all matters shall be considered strictly confidential.

The panel shall have the right to:

1. request testimony from individuals either in writing or in person;
2. review records (including confidential personnel records if a "need to know" exists);
3. secure other relevant data or documents from whatever College source is necessary;
4. hold executive, closed sessions (with just panel members present);
5. respond to or cross-examine witnesses presented by the grievant;
6. retain legal counsel if the grievant retains legal counsel (see step 6 below);
7. determine what evidence may or may not be admissible; and
8. determine the formalized procedures by which the panel shall function in light of the particular circumstances surrounding each grievance.

The grievant shall:

1. receive written notice of all evidentiary hearings of the panel;
2. have the right to present evidence on his/her behalf, if such evidence is deemed admissible by the panel (pertinent/relevant to the grievance being addressed);

3. be entitled to a fair and impartial hearing on his/her grievance;
4. have the right to present witnesses on his/her own behalf;
5. have the right to respond to or cross-examine witnesses presented by the panel;
6. have the right to have in attendance a College employee as a representative of his/her own choosing. If the grievant intends to be accompanied at a hearing by an attorney, he/she must notify the Chairperson of the Grievance Panel and the President of the College at least five (5) working days in advance of the hearing date to permit the College to make arrangements for legal counsel;
7. not be required to give self-incriminating evidence.

The Chairperson of the panel will record the actions of the panel or will designate another panel member as recorder.

An adequate and accurate summary of the hearing will be made and retained on file by the recorder. In all hearings there shall be both a digest and a verbatim

record, such as a tape recording. The grievant will be furnished a draft of the summary and he/she will have the opportunity to submit written comment which will be incorporated as part of the record.

No person other than the recorder may tape record a hearing. All tape recordings made will be treated as confidential and will be retained/filed by the Chairperson or recorder of the panel.

Relevant data, records, and all documents must be made available for review by panel members and the grievant prior to the beginning of each hearing and shall be maintained until a final decision is made on the grievance.

No evidence may be used by the panel in its determination of a grievance unless it has been deemed admissible by the panel and has been presented to the aggrieved employee before review by the panel. The grievant, as well as other persons directly involved in the grievance, should have no communications concerning the grievance with members of the Review Panel until the grievance is resolved.

The decision of the panel shall be based solely upon evidence presented at the hearing. Decisions of the panel shall be reached by majority vote.

E. Report and Recommendation(s)

A written report and recommendation(s) of the panel are to be forwarded to the appropriate dean and to the President within twenty (20) calendar days of the conclusion of the hearings. The final report and recommendation(s) must be signed by each member of the panel and by the grievant (to indicate receipt). If there are dissenting opinions, a written minority report may also be made. A copy of the final report and recommendation(s) must also be mailed or otherwise delivered to the grievant and, if the grievance was against an individual, such person must also receive a copy of the panel's report.

The President shall take one of two actions after receiving the panel's report and recommendation(s):

1. accept the recommendation(s) of the panel as stated; or
2. reject or modify the recommendation(s) of the panel as he sees fit for just and rational reasons.

The President must render his decision within ten (10) calendar days of receiving the final panel reports.

F. Appeal

Upon notification of the President's decision, the grievant shall have ten (10) calendar days in which to file a written appeal to the President of the College. Such appeal must be specific in its basis/rationale. Failure to file such a timely written appeal shall constitute a waiver of all further rights with respect to the grievance. Such an appeal may also be taken by any individual against whom the grievance was filed or by any employee responsible for implementing the recommendation(s) of the panel.

1. If the President accepts the recommendation(s) of the panel as stated (£1 above in section E) and the grievant wishes to appeal this decision, the grievant shall have the right of final appeal to the President (request for reconsideration).

2a. If the President rejects or modifies the recommendation(s) of the panel and such rejection/ modification is satisfactory to the grievant, the grievance shall be considered as resolved at this point. The President and grievant shall sign a statement indicating the satisfactory resolution of the grievance and the terms.

2b. If the President rejects or modifies the recommenda- tion(s) of the panel as stated and the grievant is not satisfied with the President's rejection/modification of the panel's findings, the grievant shall have the right of final appeal to the Allegany College Board of Trustees (the appeal being brought through the President of the College).

G. Board of Trustees

In the event that the grievance involves, (1) the dismissal of a member of the support staff or, (2) the President's rejection/unsatisfactory modification of the panel's recommendation, such employee, after first exhausting all informal and formal procedures stated above, shall be given an opportunity for a hearing before the Board of Trustees of Allegany College in person and/or by a College representative of his/her choosing or legal counsel. If the employee intends to be accompanied at a hearing by an attorney, the employee must provide written notice to the President of the College five (5) working days after receipt of the decision of the President in any appeal filed. The Board of Trustees shall, subject to procedures required by law, establish their own procedures to be followed in each case. However, an employee may be represented by

an attorney or other representative and may present relevant evidence and examine and cross-examine witnesses. The employee shall be provided with a written copy of the charges against him. A record of the hearing shall be maintained. The decision of the Board of Trustees shall be the final College position and shall be expressed in writing to the employee by the President of the College no later than ten (10) working days after the final meeting or hearing at which a decision has been reached.

H. Regulations

1. In the event the grievance is related to the dismissal of an employee, the President may decide that it is in the best interest of the College to suspend the employee, with or without pay, until a final decision is reached. Such suspension shall be expressed in writing to the employee. An employee may be entitled to back pay in appropriate circumstances, after a suspension without pay.

2. Saturdays, Sundays, and holidays shall not be applied in computing time limits under this procedure. Unusual circumstances, such as weather closing, sickness, and funerals, should be taken into consideration.

3. Any and/or all of the time limits in the grievance process must be strictly adhered to. The President may, however, with consent of the grievant or other interested party, extend any limitations period for good and substantial reason.

4. Any hearing(s) should be held during the normal College business hours if practical. Any employee(s) attending proceedings as a representative, or a witness, shall do so without loss of pay. If the hearing(s) are not held during their regular working hours, such employee(s) may be paid at their regular rate of pay or, at the discretion of the President, be granted compensatory time off.

5. In the case of a group grievance, all members of the aggrieved group may attend the hearing(s).

6. The grievance hearings may be held at any campus location designated by the Grievance Review Panel or Board of Trustees.

7. If the grievance occurs at a level too high to permit all the supervisors outlined in the informal steps to be involved, the steps shall be modified accordingly.

8. In the event a grievance is filed against the President, the grievant and the President shall meet within five (5) working days after the grievance arises to attempt to resolve the matter. The President may elect to involve the President's Council in informal discussion(s) in order to resolve the dispute. The decision of the President shall be final with the understanding that the grievant has a right to appeal to the Board of Trustees and the grievant exercises such right in a timely manner.

9. At any point in the informal or formal grievance procedure, the grievant may withdraw the grievance by written notice.

10. No adverse action of any type will affect any employee because he/she utilizes these procedures.